

STATE OF NEW YORK

3352

2025-2026 Regular Sessions

IN ASSEMBLY

January 27, 2025

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the administrative code of the city of New York, in relation to establishing a variable supplements fund for sanitation members of the New York city employees' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 13-101 of the administrative code of the city of
2 New York is amended by adding a new subdivision 97 to read as follows:

3 97. "Sanitation variable supplements fund". The sanitation variable
4 supplements fund established by section 13-197 of this chapter.

5 § 2. The administrative code of the city of New York is amended by
6 adding a new section 13-197 to read as follows:

7 § 13-197 Sanitation variable supplements fund. 1. As used in this
8 section, the following words and phrases shall have the following mean-
9 ings, unless a different meaning is plainly required by the context:

10 (a) "Association". The uniformed sanitationmen's association and the
11 sanitation officers' association.

12 (b) "Variable supplements board". The board of trustees provided for
13 in subdivision three of this section.

14 (c) "Beneficiary". Any person who (1) receives a retirement allowance
15 by reason of having retired from service as a sanitation member, or (2)
16 receives a benefit by reason of election of an option by such sanitation
17 member.

18 (d) "Variable supplement". Any sum authorized to be paid to a benefi-
19 ciary by the variable supplements board pursuant to the provisions of
20 this section.

21 2. (a) There is hereby established a fund, to be known as the sanita-
22 tion variable supplements fund. Such fund shall consist of such monies
23 as may be paid thereto from the retirement system pursuant to the
24 provisions of section 13-198 of this chapter and all other monies
25 received by such fund from any other source pursuant to law.

26 (b) It is hereby declared by the legislature that the sanitation vari-
27 able supplements fund shall not be, and shall not be construed to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 constitute, a pension or retirement system or fund, and that it shall
2 function as a means whereby payments, not constituting a pension or
3 retirement allowance, may be made at the discretion of the variable
4 supplements board, in accordance with the provisions of this section, to
5 eligible beneficiaries, as a supplement to benefits received by them
6 pursuant to this title. The legislature hereby reserves to the state and
7 itself the right and power to amend, modify or repeal any or all of the
8 provisions of this section.

9 3. (a) The sanitation variable supplements fund shall be administered
10 by a board of trustees which shall, subject to applicable provisions of
11 law, from time to time establish rules and regulations for the adminis-
12 tration and transaction of the business of such fund and for the control
13 and disposition thereof.

14 (b) Such variable supplements board shall consist of:

15 (1) The representative of the mayor who is a member of the board of
16 trustees of the retirement system, who shall be entitled to cast one
17 vote. The mayor may, by instrument in writing filed in such mayor's
18 office with the variable supplements board, designate one or more
19 members of such mayor's office to act in the place of such represen-
20 tative at meetings of the board, in the event of such representative's
21 absence therefrom.

22 (2) The comptroller of the city, who shall be entitled to cast one
23 vote. Any deputy comptroller authorized, pursuant to subdivision b of
24 section ninety-four of the New York city charter, to act in the place of
25 the comptroller as a member of the board of trustees of the retirement
26 system, may be authorized by the comptroller, in accordance with the
27 provisions of such subdivision, to act in the place of the comptroller
28 as a member of the variable supplements board.

29 (3) One member of the uniformed sanitationmen's association and one
30 member of the sanitation officers' association designated by them, who
31 shall be entitled to cast one vote. The members so designated shall be
32 officers of the associations. Each such designee may at any time, by
33 written authorization filed with the variable supplements board, author-
34 ize any other officer of the association to act in such designee's place
35 as a member of the board in the event of such designee's absence from
36 any meeting thereof; provided that the bylaws or constitution of the
37 association provide for the designation of a representative for such
38 purposes.

39 (c) Every act of the variable supplements board shall be by a resolu-
40 tion adopted by the votes of not less than three members of such board,
41 except as otherwise provided in paragraph (d) of this subdivision.

42 (d)(1) In the event that the votes of at least three members of such
43 board are not cast in favor of any resolution proposed, such dispute
44 shall be promptly referred to the arbitrator designated for the purpose
45 of resolving such disputes, in the collective bargaining agreement then
46 in effect, between the city of New York and the associations. Such arbi-
47 trator shall determine such dispute as expeditiously as possible and
48 such arbitrator's determination shall be adopted by the board.

49 (2) If the arbitrator designated in such agreement is unwilling or
50 unable to serve, or if there be no such agreement then in effect, and
51 the votes of at least three members of the variable supplements board
52 are not cast in favor of a resolution designating another arbitrator, an
53 arbitrator shall be appointed by the supreme court, on application of
54 any member of such board. The determination of the arbitrator made
55 pursuant to the provisions of this subparagraph shall be adopted by the
56 board.

1 (3) The cost of any arbitration pursuant to the foregoing provisions
2 of this paragraph shall be paid by the sanitation variable supplements
3 fund.

4 (e) The actuary appointed by the board of the retirement system shall
5 be the technical advisor of the variable supplements board.

6 (f) The retirement system shall assign to the variable supplements
7 board such number of clerical and other assistants as may be necessary
8 for the performance of its functions.

9 4. (a) The variable supplements board may in its discretion authorize
10 payments from the sanitation variable supplements fund to beneficiaries
11 pursuant to the provisions of this section. Subject to the provisions of
12 paragraph (b) of this subdivision, such payments may be made in such
13 form, in such amount and in such cases as the variable supplements board
14 may in its discretion determine; provided, however, that the board, in
15 so exercising its discretion, shall give consideration to equity, fair-
16 ness and principles of prudent management.

17 (b) (1) No beneficiary shall have a right to receive variable supple-
18 ments except to the extent, in the manner and for the period authorized
19 by the variable supplements board in the exercise of its discretion
20 pursuant to this section and any such supplements granted may at any
21 time be discontinued by the variable supplements board in the exercise
22 of such discretion.

23 (2) The legislature hereby declares that the variable supplements
24 authorized by this section and the granting and receipt thereof:

25 (i) shall not create or constitute membership in a pension or retire-
26 ment system and shall not create or constitute a contract with any bene-
27 ficiary or with any sanitation member; and

28 (ii) shall not constitute a pension or retirement allowance or benefit
29 under the retirement system or otherwise.

30 (3) Except as otherwise provided in section 13-198 of this chapter,
31 nothing contained in this section shall create or impose any obligation
32 on the part of the retirement system, or the funds or monies thereof, or
33 authorize such funds or monies to be appropriated or used for any
34 payment under this section or for any purpose thereof.

35 (c) Beneficiaries shall be eligible to receive variable supplements
36 pursuant to this section, notwithstanding any other provision of law to
37 the contrary.

38 (d) (1) The variable supplements board shall not grant any variable
39 supplement pursuant to this section unless the sanitation variable
40 supplements fund, at the time of the making of such grant, has in its
41 possession monies or assets which are sufficient to provide such supple-
42 ment and which have not been encumbered by any other grant of any such
43 supplement.

44 (2) Upon the making of any such grant, the monies or assets encumbered
45 thereby shall be set aside and shall not be used for any other purpose,
46 except that they may be invested as authorized by subdivision six of
47 this section.

48 5. The sanitation variable supplements fund shall have the powers and
49 privileges of a corporation and by its name all of its business shall be
50 transacted, all of its funds invested, all warrants for money drawn and
51 payments made, and all of its cash and securities and other property
52 held.

53 6. The members of the variable supplements board shall be the trustees
54 of the monies received by or belonging to the sanitation variable
55 supplements fund pursuant to this section and shall have full power to
56 invest same, subject to the terms, conditions, limitations and

1 restrictions imposed by the law upon savings banks in the making and
2 disposing of investments by savings banks; and subject to like terms,
3 conditions, limitations and restrictions, such trustees shall have full
4 power to hold, purchase, sell, assign, transfer or dispose of any of the
5 securities or investments in which any of such monies shall have been
6 invested as well as the proceeds of such investments and of any monies
7 belonging to such fund.

8 7. The variable supplements board shall publish annually in the City
9 Record a report for the preceding year showing the assets of the sanita-
10 tion variable supplements fund and a statement as to the accumulated
11 cash and securities of such fund as certified by the comptroller, and
12 shall set forth in such report such other facts, recommendations and
13 data as the board may deem pertinent.

14 8. The comptroller shall be custodian of the monies and assets of the
15 sanitation variable supplements fund. All such monies and assets
16 included in such fund or which shall hereafter accrue to such fund shall
17 be in such comptroller's custody for the purposes of this section
18 subject to the direction, control and approval of such board as to
19 disposition, investment, management and report. All payments from such
20 fund shall be made by the comptroller upon a voucher signed by the
21 secretary of the variable supplements board.

22 9. Except as provided in this section, the trustees and employees
23 assigned to the variable supplements board are prohibited from having
24 any interest, directly or indirectly, in the gains or profits of any
25 investment of the sanitation variable supplements fund or as such,
26 directly or indirectly, from receiving any pay or emolument for their
27 services. The trustees and such employees, directly or indirectly, for
28 themselves or as agents or partners of others, shall not borrow any of
29 its funds or deposits or in any manner use the same except to make such
30 current and necessary payments as are authorized by such board.

31 10. (a) The sanitation variable supplements fund shall not make any
32 payments to beneficiaries unless a plan setting forth the basis and
33 amounts of such payments and the qualifications for receipt thereof is
34 first filed with the superintendent of financial services and approved
35 by such superintendent as consistent with the provisions of this
36 section.

37 (b) The superintendent of financial services may examine the affairs
38 of the sanitation variable supplements fund with the same powers and
39 jurisdiction as are applicable in the case of an examination of a life
40 insurance company by such superintendent under article three of the
41 insurance law.

42 § 3. Subdivision a of section 13-133 of the administrative code of the
43 city of New York, as amended by chapter 255 of the laws of 2000, is
44 amended to read as follows:

45 a. Regular interest, charges payable, the creation and maintenance of
46 reserves in the contingent reserve fund and the pension fund and the
47 maintenance of annuity reserves, pension reserves and reserves-for-in-
48 creased-take-home-pay as provided for in this chapter and the payment of
49 all pensions, pensions-providing-for-increased-take-home-pay, annuities,
50 retirement allowances, refunds, death benefits and any other benefits
51 granted under the provisions of this chapter, are hereby made obli-
52 gations of the city. All income, interest and dividends derived from
53 deposits and investments authorized by this chapter shall be used and
54 disposed of in the manner prescribed by subdivision b of this section.
55 Upon the basis of each actuarial determination and appraisal provided
56 for in this chapter, the board shall prepare and submit to the director

1 of management and budget an itemized estimate of the amounts necessary
2 to be appropriated by the city to the various funds to provide for
3 payment in full during the ensuing fiscal year of all such obligations
4 of the city accruing during the ensuing fiscal year. There shall be
5 included annually in the budget a sum sufficient to provide for such
6 obligations of the city. The comptroller shall pay the sums so provided
7 into the various funds provided for by this chapter, subject to the
8 provisions of subdivision b of this section. Nothing contained in this
9 section shall be construed as preventing the payments, if any, required
10 to be made pursuant to sections 13-193 (relating to the transit police
11 variable supplements funds), 13-193 (relating to the housing police
12 variable supplements funds), 13-193.2, 13-193.3, 13-193.4, 13-193.5,
13 13-193.7, 13-193.6, 13-195 ~~and~~, 13-195.1 and 13-198 of this chapter.

14 § 4. The administrative code of the city of New York is amended by
15 adding a new section 13-198 to read as follows:

16 § 13-198 Payments to sanitation variable supplements fund. 1. As used
17 in this section, the following terms shall mean and include:

18 (a) "Base fiscal year". Any fiscal year of the city beginning on or
19 after July first, two thousand twenty-four with respect to which fiscal
20 year a determination is required to be made as to whether the retirement
21 system is required to make a payment, pursuant to the provisions of this
22 section, to the sanitation variable supplements fund.

23 (b) "Current fiscal year". The fiscal year of the city next succeeding
24 the base fiscal year.

25 (c) "Transferable earnings". The total amount obtained in a base
26 fiscal year with respect to the New York city employees' retirement
27 system by following the procedure described in paragraph twelve of
28 subdivision a of section 13-232 of this title.

29 (d) "Amount of assets of the retirement system". With respect to any
30 base fiscal year, the aggregate amount of all assets of the retirement
31 system on June thirtieth of such fiscal year.

32 (e) "Amount of sanitation assets". The amount obtained by multiplying
33 the total assets of the retirement system as of June thirtieth of such
34 base fiscal year by (i) the total salaries of sanitation members of the
35 retirement system as of such June thirtieth and dividing the product by
36 (ii) the total salaries of members of the retirement system as of such
37 June thirtieth.

38 (f) "Allocation to the sanitation variable supplements fund". With
39 respect to any base fiscal year, the amount obtained:

40 (i) by multiplying the transferable earnings, if any, with respect to
41 such base fiscal year by the amount of sanitation assets with respect to
42 such base fiscal year; and

43 (ii) by dividing the amount computed pursuant to subparagraph (i) of
44 this paragraph by the amount of assets of the retirement system with
45 respect to such base fiscal year.

46 2. As soon as practicable after the close of each base fiscal year,
47 but not later than August thirty-first of the current fiscal year, the
48 board of the retirement system shall determine, in the manner provided
49 in paragraph (f) of subdivision one of this section, whether there is an
50 allocation to the sanitation variable supplements fund with respect to
51 such base fiscal year, and pay such allocation from the contingent
52 reserve fund to the sanitation variable supplements fund.

53 § 5. This act shall take effect immediately.